

**TOWN OF ARLINGTON
MASSACHUSETTS
SELECT BOARD**

**GUIDANCE REGARDING THE GRANTING OF WAIVERS AND APPEALS FOR THE
PROHIBITION ON NEW FOSSIL FUEL INFRASTRUCTURE IN NEW
CONSTRUCTION AND MAJOR RENOVATION**

Duties and Responsibilities

Title VI, Article 10 of the Town Bylaws (available on the Town website), “Prohibition on New Fossil Fuel Infrastructure in New Construction and Major Renovation,” “restricts and prohibits new building construction and major renovation projects that are not fossil fuel-free in the interests of protecting health, safety, and the natural environment and reducing air pollution and greenhouse gas emissions, which cause climate change, thereby threatening the Town and its inhabitants.” The Bylaw enables the Town to participate in the Fossil Fuel-Free Demonstration Program, pursuant to an “Act Driving Clean Energy and Offshore Wind” (St. 2022, c. 179, § 84) and 225 CMR 24.00.

Per Section E of Title VI, Article 10, waivers may be granted where “compliance with the provisions of this bylaw makes a project financially infeasible or impractical to implement.” Waivers are to be “issued narrowly for specific portions of a project that are financially infeasible or impractical to implement under the requirements of this Article.”

While the Town’s Building Inspector is charged with granting waivers, the Bylaw directs the Select Board to provide guidance regarding the granting of waivers and prescription of conditions for said waivers. The Town Manager is charged with hearing appeals from decisions by the Building Inspector in accordance with procedural rules as may be adopted by the Town Manager.

These guidelines may be periodically revised in light of experience with the waiver program and changes in available technology or other circumstances.

How to Request a Waiver

Waiver requests can be made at any time via the online Fossil Fuel Free Waiver Request Form. Applicants should be prepared to provide the information specified below, in writing.

Conditions for Waivers

All waivers are subject to the discretion of the Building Inspector or Town Manager (on appeal), consistent with the Bylaw. No applicant has a right to a waiver. Furthermore, exemptions and waivers must not conflict with the requirements established in the state energy codes adopted by

the Town, specifically the Stretch Energy Code and Specialized Energy Code, 225 CMR 22.00 and 23.00.

Waivers are granted where compliance with the Bylaw renders a project financially infeasible; and/or impractical to implement.

Applicants must provide:

- 1) A detailed cost comparison *that includes available rebates and credits*; and
- 2) A narrative that describes how, as a result of factors beyond the control of the applicant, the project circumstances include any of the following:
 - The additional cost of specific fossil fuel free equipment required to meet the building's heating, hot water, and/or cooking demand, compared to conventional, high-efficiency fossil fuel equipment, would create substantial financial hardship; and/or
 - The additional cost or delays associated with electrical service upgrades necessary to introduce non fossil fuel appliances or systems compared to the cost of electrical service upgrades otherwise required for the project (i.e., to serve the installation of fossil fuel or other equipment) would create substantial financial hardship; and/or
 - Delays associated with the procurement of specific fossil fuel free equipment or components would create substantial financial hardship; and/or
 - Conditions at the site render installation of a given technology impossible (e.g., due to site grade or space constraints); and/or
 - The nature of the use requires specialty equipment that uses fossil fuels, without which it would be impossible to pursue the particular use intended in the building.

Costs or delays that yield substantial financial hardship must be exceptional, exceeding typical costs and delays of like projects. Particular consideration for waivers will be given to projects sponsored by non-profit or government-sponsored affordable housing entities.

Appeals

If the Building Inspector denies the waiver request, that denial shall be appealable to the Town Manager within 30 days. To appeal a waiver, please contact the Town Manager's Office. Appeals may be made online at jfeeney@town.arlington.ma.us, or in person or by mailing in a written request.

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